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EQUIPMENT LEASE AGREEMENT

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Dated as of

INTERSTATE COMMERCE COMMISSION

November 1, 1973

between

TRANS UNION LEASING CORPORATION,

as Lessor

and

DOW BADISCHE COMPANY,

as Lessee

39 MAGOR RAILROAD HOPPER CARS
7 ACF RAILROAD HOPPER CARS
10 GATX RAILROAD TANK CARS

The interest of Lessor under this lease is subject
to the security interest described on the signature page hereof.

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The interest of Lessor under this Lease is subject to the security interest described on the signature page hereof.

EQUIPMENT LEASE AGREEMENT

THIS LEASE is entered into as of November 1, 1973 between TRANS UNION LEASING CORPORATION, as Lessor, and DOW BADISCHE COMPANY, as Lessee, with reference to the following:

A. For the purposes hereof, the following terms shall have the following meanings when used herein (which definitions are used herein in their singular or plural form as the context may require):

ACF Acquisition Agreement: The Acquisition Agreement dated November 1, 1973 between Lessee and Lessor, and the Consent and Agreement of ACF thereto, dated November 1, 1973.

Acquisition Agreements: The ACF, GATX and Sandersville Acquisition Agreements.

Basic Rent: The aggregate rent payable with respect to the Term for the Equipment pursuant to Section 3(b) hereof.

Bill of Sale:

A full warranty bill of sale in form and substance satisfactory to Lessor covering an Item or Items of Equipment, executed by the Vendor thereof, in favor of Lessor, specifically describing such Item or Items of Equipment.

Equipment:

Thirty nine used Magor aluminum covered railroad hopper cars, seven new ACF covered railroad hopper cars and ten new coiled and insulated GATX railroad tank cars as more particularly described in Exhibit A hereto.

Event of Default:

Each of the events specified in Section 16 hereof.

Event of Loss:

Any of the following events with respect to any Item of Equipment:

- (i) the actual or constructive total loss of such Item (including, without limitation, any damage to such Item which results in an insurance settlement or a settlement under the rules of the Association of American Railroads with respect to such Item on the basis of a total loss); (ii)

Event of Loss:
(Cont.)

such Item shall become lost, stolen, destroyed, damaged beyond repair or permanently rendered unfit for any reason whatsoever; (iii) the condemnation, confiscation, theft or seizure of, or requisition of title to or use of, such property.

GATX Acquisition Agreement:

The Acquisition Agreement dated November 1, 1973 between Lessor and Lessee and the Consent and Agreement of GATX thereto dated November 1, 1973.

Item of Equipment:

Each railroad car.

Lease:

This Equipment Lease Agreement and each Lease Supplement or amendment or supplement hereto or thereto from time to time entered into.

Lease Quarterly Period:

With respect to each Item of Equipment, each of the 40 (in the case of a Series A Item) and 60 (in the case of a Series B Item) consecutive periods throughout the Term for such Item, the first such period commencing on and including the Payment

Lease Quarterly Period:
(Cont.)

Date of such Item, each of which periods shall end on the day preceding the next Lease Rental Date.

Lease Rental Date:

With respect to each Item of Equipment, the first day of each Lease Quarterly Period for such Item (except for the first such Lease Quarterly Period) and the day following the last day of the Term for such Item.

Lease Supplement:

Each of the Lease Supplements, substantially in the form of Exhibit B hereto, to be entered into between Lessor and Lessee for the purpose of leasing Equipment under and pursuant to the terms of this Lease.

Lessee:

Dow Badische Company, a Delaware corporation with its chief place of business at Route 60 East, Williamsburg, Virginia 23185.

Lessor:

Trans Union Leasing Corporation, a Delaware corporation with its chief place of business at 111 West Jackson Boulevard, Chicago, Illinois 60604.

Lessor's Cost:

In the case of the Equipment, an amount equal to the lesser of (i) \$900,000 for all Series A Equipment ^{\$723,700} or ~~\$720,000~~ for all Series B Equipment, or (ii) the full purchase price therefor due to be paid to the Vendors under the Purchase Agreements referred to in the Acquisition Agreements, and in the case of each Item of Equipment an amount equal to the lesser of (i) the amount set forth opposite the description of such Item in Exhibit A under the column headed "Maximum Lessor's Cost (per Item)" or (ii) the unit price thereof, as specified in the Vendor's invoice therefor.

Payment Date:

December 7, 1973, December 28, 1973 and, at Lessee's option, one other business day in 1973 (on or after December 7, 1973) and one other business day in 1974 (on or before February 28, 1974).

Rent:

Basic Rent and Supplemental Rent collectively.

Sandersville Acquisition Agreement:

The Acquisition Agreement dated November 1, 1973 between Lessee and Lessor and the Consent and Agreement of Sandersville thereto, dated November 1, 1973.

Secured Lender:

Bank of America National Trust and Savings Association, a national banking association with its head office at 555 California Street, San Francisco, California, Box 37070, San Francisco, California 94137.

Security Agreement:

Security Agreement dated November 1, 1973 between Lessor and Secured Lender.

Series A Equipment:

The 39 used Magor railroad hopper cars.

Series B Equipment:

The 7 new ACF railroad hopper cars and the 10 new GATX railroad tank cars.

Stipulated Loss Value:

As of any particular date of computation, the amount determined for such date in accordance with Exhibit C hereto.

Supplemental Rent:

Any and all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder to Lessor or others, including Termination Value and Stipulated Loss Value payments, but excluding Basic Rent.

Term:

With respect to each Item of Equipment, the term for which such Item is leased pursuant to Section 2 hereof, as provided in Section 3(a) hereof and Paragraph 4 of the Lease Supplement or Supplements for such Item.

Termination Value:

As of any particular date of computation, the amount determined for such date in accordance with Exhibit C hereto.

Vendors:

ACF Industries Incorporated, a New Jersey corporation ("ACF"), General American Transportation Corporation, a New York corporation ("GATX") and Sandersville Railroad Company, a Georgia corporation ("Sandersville").

B. The Acquisition Agreements contemplate that Lessor will purchase from each Vendor and simultaneously therewith lease to Lessee, and Lessee will lease from Lessor, the Equipment described in Exhibit A hereto under this Lease.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. ACCEPTANCE UNDER ACQUISITION AGREEMENT AND LEASE

(a) Acceptance by Lessor. Lessor, subject to satisfaction of the conditions set forth in Section 2 hereof, hereby agrees to make payments on each Payment Date between December 7, 1973 and February 28, 1974 to the appropriate Vendors of Lessor's Cost of Equipment delivered by such Vendor, and to accept from such Vendor delivery of a Bill of Sale for such Equipment and, simultaneously therewith, to lease such Equipment to Lessee hereunder, and Lessee hereby agrees, expressly for the direct benefit of Lessor and Secured Lender, to lease such Equipment from Lessor hereunder provided that Lessee shall have accepted such Equipment hereunder as evidenced by the execution by Lessor and Lessee of a Lease Supplement leasing such Equipment.

(b) Acceptance by Lessee. At least five (5) days prior to each Payment Date Lessor will authorize one or more employees of Lessee, designated by Lessee in writing, as the authorized representative or representatives of Lessor to accept delivery of any Equipment to be delivered hereunder on such Date pursuant to the relevant Acquisition Agreement. Such authorized representative shall inspect and test such Equipment and if

such Equipment appears to meet the specifications applicable thereto, will execute and deliver to Lessor and Lessee a Certificate of Acceptance in the form attached to the relevant Acquisition Agreement, whereupon Lessee will execute and deliver to Lessor a Lease Supplement describing such Equipment and specifying Lessor's Cost of each Item thereof. Lessee's execution and delivery to Lessor of such Lease Supplement shall conclusively establish as between Lessor and Lessee, but without prejudice to any rights either party may have against the Vendor thereof, that each Item of Equipment described therein is acceptable to and accepted by Lessee hereunder, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that each such Item is in good order and condition and appears to conform to the specifications applicable thereto.

Section 2. CONDITIONS PRECEDENT TO OBLIGATIONS OF LESSOR.

The obligation of Lessor to make any payment to a Vendor with respect to any Item of Equipment on any Payment Date is subject to the following conditions precedent having been complied with to the satisfaction of Lessor on or before such Date:

(a) Secured Lender's Advance. Secured Lender shall have advanced to Lessor (or Lessor's order) 80%, in the case of a Series A Item of Equipment, or 78%, in the case of a Series B Item of Equipment, of the amount of such payment.

(b) Lessee's Notice and Certificate of Acceptance. Lessor and Secured Lender shall have received (i) at least five

(5) business days prior to each prospective Payment Date, a written notice from Lessee specifying such Payment Date and setting forth the information as to the Equipment to be delivered hereunder on such Date required to be inserted in a Lease Supplement and (ii) on such Payment Date, a Certificate of Acceptance relating to such Equipment.

(c) Lease and Lease Supplement. This Lease and a Lease Supplement specifically describing such Item shall be in full force and effect and Lessor and Secured Lender shall each have received a complete copy thereof, certified as being complete and correct as of such Date by an officer of Lessee.

(d) Termination of Vendor's Interest; Bill of Sale. Lessor shall have received the original copies of, (i) a Uniform Commercial Code Termination Statement and a release of any Interstate Commerce Commission (the "ICC") filing terminating any security interest of any Vendor in such Item which may have been perfected by filing, (ii) a Vendor's invoice for the payment relating to such Item, approved for payment by Lessee, (iii) the Bill of Sale for such Item, and (iv) the written opinion of counsel for the Vendor of such Item or other evidence satisfactory to Lessor to the effect that the Bill of Sale for such Item has been duly authorized, executed and delivered and is fully effective in accordance with its terms.

(e) ICC Filing. This Lease and the Security Agreement and the Lease Supplement and the Security Agreement Supplement relating to such Item of Equipment shall have been duly filed

with and recorded by the ICC pursuant to Section 20c of the Interstate Commerce Act and the regulations of the ICC relating thereto [49 U.S.C. §20c; 49 CFR Part 1116].

(f) Lessee's Acknowledgment. Lessee shall have received a duly executed copy of the Notice, and, Lessor and Secured Lender shall have received duly executed copies of the Acknowledgment and Agreement of Lessee with respect to the Rent for such Item, both in the forms set forth in Exhibit D hereto.

(g) Lessee's Authority and Bring-Down Certificate. Lessor and Secured Lender shall each have received the following, in each case in form and substance satisfactory to Lessor and Secured Lender: (i) a copy of resolutions of the Board of Directors of Lessee, certified by the Secretary or an Assistant Secretary of Lessee, duly authorizing the lease by Lessee of the Equipment under this Lease and the execution, delivery and performance by Lessee of the Acquisition Agreements, this Lease and each Lease Supplement, the Acknowledgment and Agreement of Lessee referred to in paragraph (f) of this Section 2 and any other instrument required to be executed and delivered by Lessee hereunder, (ii) a certificate signed by a duly authorized officer of Lessee, dated such Date, certifying that (A) the representations and warranties contained in Section 4 hereof are true and accurate on and as of such Date and (B) no event has occurred and is continuing, or would result from the lease of such Item, which constitutes an Event of Default or would constitute an Event of Default upon lapse of time or notice

or both (iii) an incumbency certificate as to the person or persons executing and delivering such documents and instruments on behalf of Lessee, and (iv) such other documents and evidence with respect to Lessee as Lessor or Secured Lender may reasonably request in order to establish the consummation of the transactions contemplated by this Lease, the taking of all corporate proceedings in connection therewith and compliance with the conditions set forth in this Section 2.

(h) Creditor's Approvals. All approvals and consents of any trustee or holder of any indebtedness or obligations of Lessee which, in the opinion of Lessor or Secured Lender, are required in connection with any of the transactions contemplated by this Lease shall have been duly obtained, and copies thereof, certified by an officer of Lessee, shall have been delivered to Lessor and Secured Lender.

(i) Acquisition Agreement. Lessor and Secured Lender shall each have received fully executed copies of the relevant Acquisition Agreement in the form of Exhibit E hereto, together with a Certificate of Acceptance relating to such Item in the form attached thereto, executed by the authorized representative of Lessor pursuant to Section 1(b) hereof.

(j) Opinion of Lessee's Counsel. Lessor and Secured Lender shall have received a favorable opinion addressed to them, from N. W. Pusey, Esq., counsel to Lessee, as to the matters set forth in clauses (i), (ii), (iii), (iv), and (v) of paragraph (b) of Section 4 of this Lease and as to such other matters as Lessor or Secured Lender may reasonably request.

(k) Tax Laws. No amendment, modification, addition or change (including a change in judicial or administrative interpretation) shall have been made in or to the provisions of Section 38 of the Internal Revenue Code of 1954, as amended to November 1, 1973 (the "Code") (or any successor section thereto), or any other provision of the Code or the regulations thereunder, and the Series B Equipment has not been put to any use, which, in the opinion of counsel for Lessor, could preclude Lessor from taking (i) investment credit at the rate of 7% on the full Lessor's Cost of any Series B Item of Equipment on the basis that such Item is "new Section 38 property", or (ii) for each of its taxable years (or portions thereof) in which this Lease is in effect, (A) depreciation deductions with respect to the full Lessor's Cost of such Item which is based on a method of depreciation provided by Section 167(b)(2) of the Code, and (B) deductions with respect to interest to be paid to Secured Lender on the loan made by Secured Lender to Lessor relating to such Item.

In the event that, because any of the foregoing conditions is not satisfied, Lessor fails to make any payment on the Payment Date therefor, Lessee assumes responsibility and liability for such payment and will indemnify Lessor against and hold Lessor harmless from any claim, cost, expense or liability resulting from such failure other than as a result of negligence or willful misconduct of Lessor or Secured Lender.

Section 3. TERM AND RENT.

(a) Term. The Term for each Item of Series A Equipment shall be for a period of ten years commencing on the Payment Date therefor and expiring on the day preceding the same day of

the one hundred twentieth month following such Date, which date shall be inserted in the Lease Supplement or Supplements relating to Series A Equipment. The Term for each Item of Series B Equipment shall be for a period of fifteen years commencing on the Payment Date therefor and expiring on the day preceding the same day of the one hundred eightieth month following such Date, which date shall be inserted in the Lease Supplement or Supplements relating to Series B Equipment.

(b) Basic Rent. Lessee hereby agrees to pay to Lessor (or any assignee of Lessor) Basic Rent for the Equipment throughout the Term as follows: with respect to each Item of Series A Equipment, in forty (40) consecutive quarterly instalments, payable quarterly in arrears on each Lease Rental Date for such Item, each in an amount equal to 3.71999% of Lessor's Cost for such Item (which dates and amounts shall be inserted in the Lease Supplement therefor); and with respect to each Item of Series B Equipment, in sixty (60) consecutive quarterly instalments, payable quarterly in arrears on each Lease Rental Date for such Item, each in an amount equal to 2.39872% of Lessor's Cost for such Item (which dates and amounts shall be inserted in the Lease Supplement therefor) provided that, with respect to any Item of Equipment delivered hereunder on a 1974 Payment Date, Lessee shall pay to Lessor (or any assignee of Lessor) on the first Lease Rental Date, as additional Basic Rent, an amount equal to 3.70128% of Lessor's Cost for such Item, which amount shall also be inserted in the Lease Supplement therefor.

(c) Supplemental Rent. Lessee also agrees to pay to Lessor, or to whosoever shall be entitled thereto, any and all Supplemental Rent promptly as the same shall become due and owing, and in the event of any failure on the part of Lessee to pay any Supplemental Rent, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Basic Rent. Lessee will also pay to Lessor, on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the rate of ten percent (10%) per annum (computed on the basis of a 360-day year and actual days elapsed) on any part of any instalment of Basic Rent not paid when due for any period for which the same shall be overdue and on any amount of Supplemental Rent payable but not paid when demanded by Lessor for the period until the same shall be paid.

(d) Lessee's Obligations Absolute and Unconditional. This Lease is a net lease and Lessee acknowledges and agrees that Lessee's obligation to pay all Rent and other sums payable hereunder and to perform all obligations of Lessee hereunder, and the rights of Lessor and Secured Lender in and to payment of such Rent and other sums and to performance of such obligations shall be absolute and unconditional and shall not be subject to any abatement, reduction, setoff, defense, counterclaim or recoupment whatsoever, including, without limitation, abatements, reductions, setoffs, defenses, counterclaims or recoupments due or alleged to be due to, or by reason of, any past, present or future claims which Lessee may have against Lessor, any Vendor, Secured Lender or against any person for any reason whatsoever;

nor, except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of Lessee be otherwise affected, by reason of any defect in any Item of Equipment, the condition, design, operation or fitness for use thereof, or any damage to, or any loss or destruction of, any Item of Equipment, any liens, encumbrances, security interests or rights of others with respect to any Item of Equipment, any prohibition or interruption of or other restriction against Lessee's use, operation or possession of any Item of Equipment for any reason whatsoever, the interference with such use, operation or possession by any private person or entity, or by reason of any other indebtedness or liability, howsoever and whenever arising, of Lessor, Lessee or Secured Lender to any other person, firm or corporation or to any governmental authority, or by reason of the initiation of any insolvency, bankruptcy or similar proceedings by or against Lessor or Lessee, or for any other cause similar to the foregoing, any present or future law to the contrary notwithstanding (to the extent any such law is waivable), it being the intention of the parties hereto that the Rent payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease or by operation of law. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof.

(e) Secured Lender's Rights. Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Equipment, upon the occurrence of an Event of Default by Lessee hereunder, are subject to the rights of Secured Lender under the Security Agreement. If an Event of Default should occur under the Security Agreement, Secured Lender may exercise the rights of Lessor hereunder (including, without limitation, the right to terminate this Lease), as provided therein, unless Secured Lender continues to receive the Rent provided in Section 3 hereof and there has not occurred an Event of Default, but nothing herein shall be deemed to impose upon Secured Lender any obligation of Lessor hereunder.

Section 4. REPRESENTATIONS AND WARRANTIES

(a) Lessor's or Secured Lender's Representations and Warranties. Lessee acknowledges and agrees that (i) the Equipment is of a size, design, capacity, manufacture and configuration selected by Lessee, (ii) Lessor is neither a manufacturer of nor a dealer in property of such kind, and (iii) AS TO LESSOR, LESSEE LEASES THE EQUIPMENT AS-IS, AND THAT NEITHER LESSOR NOR SECURED LENDER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY REPRESENTATION, COVENANT OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, SUITABILITY, MERCHANTABILITY OR FITNESS FOR USE OF THE EQUIPMENT IN ANY RESPECT, OR IN CONNECTION WITH, OR FOR THE PURPOSES AND USES OF LESSEE, OR AS TO TITLE THERETO, OR ANY OTHER REPRESENTATION, COVENANT OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, except that Lessor warrants that on the Payment Date of each Item of Equipment

Lessor shall, if so requested, provide the Vendor thereof with a resale certificate for such Item and shall have received whatever title was conveyed to it by the Vendor, subject to this Lease and any liens and encumbrances contemplated or permitted hereby, and that, except for such liens and encumbrances each such Item shall be free of liens and encumbrances which may result from claims against Lessor (i) not related to the ownership thereof or (ii) which Lessee is not obligated to remove pursuant hereto.

Lessor hereby appoints and constitutes Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of Lessor and Lessee, as their interest may appear, but in all cases at the sole cost and expense of Lessee, whatever claims and rights Lessor may have as owner of the Equipment against the Vendors.

(b) Lessee's Covenants, Representations and Warranties. Lessee covenants, represents and warrants to Lessor and Secured Lender that:

(i) Lessee is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware and has the corporate power and authority, and is duly qualified and authorized to do business wherever necessary, to carry on its present business and operations;

(ii) Lessee has the full power, authority, and legal right to enter into and perform this Lease and the Acquisition Agreements and all other documents

required to be executed and delivered by Lessee hereunder, and the execution, delivery and performance of this Lease and the Acquisition Agreements have been duly authorized by all necessary corporate action on the part of Lessee, do not require any stockholder approval or consent of any trustee or holders of any indebtedness or obligations of Lessee and do not contravene any law, governmental rule, regulation or order binding on Lessee or the certificate of incorporation or by-laws of Lessee or contravene the provisions of, or constitute a default under, or result in the creation of any lien, charge, security interest or encumbrance upon the property of Lessee under, any indenture, mortgage, contract or other agreement to which it may be bound or affected or, if required, all such consents have been obtained and delivered to Lessor and Secured Lender;

(iii) neither the execution and delivery by Lessee of this Lease, or the Acquisition Agreements nor the consummation of any of the transactions by Lessee contemplated hereby or thereby, requires the consent or approval of, the giving of prior notice to, the registration with, or the taking of any other action in respect of, any governmental body, including, without limitation, the ICC, and if any further consent, approval, notice, registration or action is at any time required by any such body, Lessee will give any such notice or file any necessary document, and will use its best efforts to obtain any necessary consent, approval or registration;

(iv) this Lease and the Acquisition Agreements and all other documents required to be executed and delivered by Lessee hereunder, (A) have each been duly entered into by Lessee and (B) each constitutes, and each Lease Supplement when entered into will constitute, legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof; the Bill of Sale for each Item of Equipment, when executed and delivered by the Vendor thereof, will constitute an effective instrument for the conveyance of title for such Item to Lessor, without any requirement for recordation or filing; and the Lease Supplement for each Item of Equipment, when executed and delivered by Lessee and accepted by Lessor, will, without further action, subject such Item to this Lease;

(v) there are no pending or, so far as is known, threatened actions or proceedings before any court or administrative agency against Lessee or the Equipment which will materially adversely affect the condition, business or operations of Lessee or the ability of Lessee to perform its obligations under this Lease and the Acquisition Agreements and all other documents required to be executed and delivered by Lessee hereunder or involve any danger of the sale, forfeiture or loss of the Equipment or any interest therein;

(vi) no mortgage, deed of trust, charter, lease, or other lien or security interest of any nature

whatsoever which now covers or affects any property or interests therein of Lessee now attaches or hereafter will attach to any Item of Equipment or in any manner affects or will affect adversely Lessor's right, title and interest therein;

(vii) Lessee has not directly or indirectly created, incurred, or assumed any lien, charge, encumbrance, claim, security interest or right of any other persons on or with respect to the Equipment, title thereto or any interest therein or in this Lease except as permitted under the first sentence of Section 6 hereof;

(viii) Lessee has filed or caused to be filed all federal, state, local and foreign tax returns which are required to be filed and has paid or caused to be paid all taxes shown to be due or payable on such returns or (except to the extent being contested in good faith and for the payment of which adequate reserves have been provided) on any assessment received by Lessee, to the extent that such taxes have become due and payable;

(ix) the consolidated balance sheet of Lessee and its consolidated subsidiaries as of December 31, 1972 and the related statement of consolidated earnings for the year then ended (copies of which have been furnished Lessor and Secured Lender) correctly set forth the consolidated financial condition of Lessee and its consolidated subsidiaries as of said date and the consolidated results of

their operations for the periods indicated, and, since such date there has been no material adverse change in such condition or results of operations and nothing has occurred which will materially adversely affect the ability of Lessee to carry on its business and operations and to perform its obligations under this Lease, and the Acquisition Agreements and all other documents required to be executed and delivered by Lessee hereunder;

(x) no part of the Series B Equipment has been put into use or operation by Lessee, or to the knowledge of Lessee, by any other person, prior to the date of the Lease Supplement relating thereto; and

(xi) the location of the Equipment is and shall be as contemplated in Section 8 hereof.

Section 5. RETURN OF EQUIPMENT

Unless purchased by Lessee as provided in Section 21 hereof, within thirty (30) days after the termination of this Lease with respect to any Item of Equipment, Lessee will, at its own cost and expense, at the request of Lessor, transport and deliver possession of such Item of Equipment to Lessor at a point in the United States designated by Lessor, upon not less than 30 days' prior written notice to Lessee, at the sole risk and expense of Lessee. The transporting and delivery of Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in

the premises Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee to so transport and deliver the Equipment. Upon such surrender of possession, such Item of Equipment shall be free and clear of all liens, charges, encumbrances, claims, security interests and rights of others (except as permitted under the first sentence of Section 6 hereof); shall be in good order and repair and (except for ordinary wear and tear) in the same condition as when delivered to Lessee hereunder and shall otherwise be in the condition required hereby.

Section 6. MORTGAGES, LIENS ETC.

Lessee will not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance, claim, security interest or right of any other person in, on or with respect to the Equipment, title thereto or any interest therein or in this Lease, except (i) the respective rights of Lessor and Lessee as herein provided and the rights of Secured Lender, (ii) liens or encumbrances which result from claims against Lessor not related to the ownership of the Equipment, (iii) liens for taxes either not yet due or being contested in good faith (and for the payment of which adequate reserves have been provided) by appropriate proceedings so long as such proceedings do not involve any danger of sale, forfeiture or loss of the Equipment or any interest therein and (iv) the rights of others under agreements or arrangements to the extent expressly permitted by the terms of Section 8(c) hereof. Lessee will promptly, at its own

expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, claim, security agreement or right not excepted above if the same shall arise or be based upon circumstances existing prior to expiration of this Lease and compliance by Lessee with its obligations hereunder.

Section 7. TAXES

Lessee agrees to pay punctually as and when due, and to indemnify and hold Lessor and Secured Lender harmless against and from, all license and registration fees and all taxes (including, without limitation, income, franchise, sales, use, personal property, stamp, interest equalization or other taxes), levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon incurred by reason of Lessee's action or inaction) imposed against Lessor, Lessee, Secured Lender or the Equipment by any governmental or quasi-governmental taxing authority, or payable by any person, upon or with respect to the Equipment or any part thereof, or upon the purchase, ownership, delivery, leasing, possession, use, shipping, transportation, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon the income or other proceeds received with respect to an Item of Equipment while such Item is leased hereunder, or upon or with respect to this Lease and all gross receipts and like taxes against Lessor on or measured by rents payable hereunder (excluding, however, United States federal

taxes on, or measured by, the net income of Lessor or Secured Lender and taxes, fees or other charges of any other jurisdiction which are based on, or measured by, the net income of Lessor or Secured Lender and (i) imposed by the jurisdiction in which the principal office of such party is located or (ii) imposed by any other jurisdiction in which such party is subject to taxes, fees or other charges as the result, whether solely or in part, of business or transactions unrelated to this Lease, and further excluding any taxes on or measured by any fees or compensation received by Secured Lender for services rendered in connection with the transactions contemplated hereby other than such taxes which under applicable law or regulations or interpretations are in substitution for or relieve Lessee from any tax on or with respect to the Equipment which Lessee would otherwise be obligated to pay under the terms of this Section 7).

It is the intention of the parties hereto that Lessor shall be free from all such fees, taxes, levies, imposts, duties, charges or withholdings and that this Lease shall yield to Lessor not less than the Rent reserved hereunder throughout the Term of this Lease and any extension thereof; provided that this Section 7 shall not be deemed to obligate Lessee to pay any fees, taxes, levies, imposts, duties, charges or withholdings which have been included in Lessor's Cost of the Equipment. Any payment by Lessee under this Section 7 shall be

in a sum which, after deduction of all taxes required to be paid by the party indemnified in respect of the receipt of such payment under the laws of the United States or any state, city or other political subdivision thereof, or of any foreign country or political subdivision thereof, shall be equal to the amount of tax, levy, impost, duty, charge or withholding (together with any penalties, fines or interest thereon except where due to a breach by Lessor of its obligations under this Section 7) so levied.

In case any report or return is required to be made with respect to any obligation of Lessee under or arising out of this Section 7, Lessee will either make such report or return in such manner as will show the ownership of the Equipment in Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor. Lessor agrees to notify Lessee promptly of Lessor's receipt of any tax bill, assessment levy, or other communication from any taxing authority relating to any tax, levy, impost, duty, charge or other obligation which Lessee is obligated to pay hereunder and to forward copies thereof promptly to Lessee.

Lessee shall not be obligated to pay any amount under this Section 7 so long as it shall in good faith and by appropriate proceedings contest the validity or the amount thereof (having provided adequate reserves for the payment thereof) unless such contest would subject any Item of Equipment to forfeiture or sale or adversely affect Lessor's title thereto.

The indemnities contained in this Section 7 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit

of, and shall be enforceable by, Lessor and Secured Lender.

Section 8. USE AND OPERATION: COMPLIANCE WITH LAWS; POSSESSION;
IDENTIFICATION MARKS

(a) Use and Operation. Lessee warrants that (i) (except for not more than fifteen (15) Items of Equipment which may be used in Canada at any one time) the Equipment shall be used only in the continental United States and (ii) the Equipment shall be used only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear.

(b) Compliance with Laws. Lessee warrants that the Equipment will at all times be used and operated under and in compliance with all laws, rules, and regulations of the jurisdictions in which operations involving any Item of Equipment subject to this Lease may extend, with the interchange rules and any other applicable rules of the Association of American Railroads, and with all lawful rules of the Department of Transportation, ICC and any other legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such Item, to the extent such laws, rules and regulations affect the title, operation or use of such Item; and Lessee shall and does hereby indemnify Lessor and Secured Lender and agrees to hold Lessor and Secured Lender harmless from and against any and all liability that may arise from any infringement or violation of any such laws, rules and regulations by Lessor or Lessee, or their employees, or any other person. In the event that such laws, rules and regulations require the alteration of the Equipment or in case

any equipment or appliance on any Equipment shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on any Equipment in order to comply with such laws, regulations, requirements and rules, Lessee agrees, at its own expense

(unless Lessor and Secured Lender agree, in their absolute discretion

~~discretion~~, to provide additional lease financing hereunder), to make such alterations, changes, additions and replacements and to use, maintain and operate the Equipment in full compliance with such laws, regulations, requirements and rules so long as the Equipment is subject to this Lease; provided, however, that Lessee may, in good faith, contest the validity or application of any such law, rule or regulation in any reasonable manner which does not, in the opinion of Lessor and Secured Lender, adversely affect the property or rights of Lessor and Secured Lender hereunder or under the Security Agreement or subject the Equipment to forfeiture or sale. Lessor agrees to join in any such proceedings in the event such joinder shall be necessary for the proper prosecution of any such proceedings; provided that Lessor shall have been fully indemnified to its satisfaction against all liabilities, costs and expenses in connection therewith.

(c) Possession and Quiet Enjoyment. Lessee agrees that it will not, without the prior written consent of Lessor (which consent shall not be unreasonably withheld) assign this

Lease or any of its rights hereunder, or sublease the Equipment or otherwise in any manner deliver, transfer or relinquish possession of any Item of Equipment, except that, without limiting any warranties contained in this Lease, and so long as (i) no Event of Default (or an event which would constitute an Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, (ii) Lessee continues to comply with the provisions of Section 12 hereof (relating to insurance) and (iii) the action to be taken shall not affect the ownership of Lessor of, or the first lien on and prior perfected security interest of Secured Lender in, any Item of Equipment, Lessee may, without the prior written consent of Lessor (A) permit the use of the Equipment by railroad carriers (as defined in the Interstate Commerce Act) regulated by the ICC in the usual interchange of traffic (if such interchange is customary at the time) but only upon and subject to all the terms and conditions of this Lease and the Security Agreement or (B) enter into ordinary trip leases or subleases with third parties provided that (1) no such trip lease or sublease shall be for a term longer than the unexpired Term of this Lease with respect to the Equipment covered thereby, or containing any provision inconsistent with this Lease, and (2) each such lease and sublease shall contain a provision describing the interest of Lessor, Lessee and Secured Lender under this Lease and an acknowledgment by the trip lessee or

sublessee of such interests. No such trip lease, sublease or interchange use shall in any event relieve Lessee of any liability, obligation or duty hereunder which shall be and remain those of a principal and not a guarantor. Any purported assignment, trip lease, sublease or interchange in violation of this Section 8 shall be void and of no force and effect, except that Lessor may exercise any of the rights set forth in Section 17 hereof as to any or all of the Equipment in case of any unauthorized assignment or transfer of any Item of Equipment.

Lessor agrees, so long as no Event of Default as defined herein has occurred and is continuing hereunder, that neither Lessor nor any party claiming by, through or under Lessor shall interfere with Lessee's possession, use and enjoyment of the Equipment.

(d) Identification Marks. Lessee will, at Lessee's expense, cause each Item of Equipment to be assigned AAR reporting marks, to be entered in the official AAR Register of Equipment and to be kept numbered with its AAR reporting marks as specified in the Lease Supplement therefor and will keep and maintain, plainly, distinctively, permanently and conspicuously, a plate or stencil printed in contrasting color upon each side of each such Item of Equipment in letters not less than one inch in height containing the following words:

"OWNED AND LEASED AS LESSOR BY TRANS UNION
LEASING CORPORATION AND SUBJECT TO A SECURITY
INTEREST RECORDED WITH THE INTERSTATE COMMERCE
COMMISSION."

with appropriate changes thereof and additions thereto, upon notice from Lessor, as from time to time may be required by law in order to protect the title of Lessor to such Item of Equipment, its rights under this Lease and the rights of Secured Lender. Lessee will not place any Item of Equipment in operation or exercise any control or dominion over the same until such legend shall have been so marked thereon. Lessee will, at Lessee's expense, replace promptly any part of such legend which may be removed, defaced or destroyed. Lessee will not change the reporting marks of any Item of Equipment except with the consent of Lessor and in accordance with a statement of new reporting marks to be substituted therefor, which consent and statement previously shall have been filed with Lessor by Lessee and filed, recorded or deposited in all public offices where this Lease or any financing statement relating thereto shall have been filed, recorded or deposited.

Except as above provided, Lessee will not allow the name of any person, association or corporation to be placed on such Item of Equipment as a designation that might be interpreted as a claim of ownership, provided that Lessee may cause the Equipment to be lettered with the names, initials or other insignia customarily used by it of the same or a similar type for convenience of identification of its right to use the Equipment under this Lease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of Lessee therein.

Section 9. MAINTENANCE; REPLACEMENT OF PARTS; ALTERATIONS, MODIFICATIONS AND ADDITIONS; ACCESSION

(a) Maintenance. Lessee shall at all times, at its own expense, maintain, service, repair, overhaul and test the Equipment leased hereunder (or cause the same to be done) so as to keep such Equipment in good and efficient working order, condition and repair and in as good condition as when delivered to Lessee hereunder, reasonable wear and tear excepted. If any Item of Equipment is lost, destroyed or damaged, Lessee agrees that it will promptly repair or restore such Item at its sole cost and expense unless such loss, destruction or damage constitutes an Event of Loss, in which case Lessee shall not be required to make any such replacement, repair or restoration of such Item but shall perform its obligations under Section 10 hereof.

Lessee agrees to duly assert any and all warranty claims relating to the Equipment and to comply with and perform all obligations of the buyer under the Acquisition Agreement relating to warranties of a Vendor or any subcontractor or supplier of a Vendor. Unless an Event of Default shall have occurred and be continuing, Lessor agrees to assign or otherwise make available to Lessee for and during the Term of this Lease as to any Item of Equipment such rights as Lessor may have under any warranty with respect to such Item made by a Vendor, including any right to instructions and data in respect of such Item, to the extent the same is assignable, and agrees to execute and deliver such further instruments as may be

reasonably necessary to enable Lessee to obtain customary warranty service furnished for such Item.

(b) Replacement of Parts. Lessee, at its own cost and expense, will promptly replace all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature (herein for the purpose of this Section 9 sometimes called "Parts"), which may from time to time be incorporated or installed in or attached to any Item of Equipment and which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for normal use for any reason whatsoever. In addition, in the ordinary course of maintenance, service, repair, overhaul or testing, Lessee may remove any Parts, whether or not worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for normal use, provided that Lessee, except as otherwise provided in paragraph (c) of this Section 9, shall replace such Parts as promptly as possible. All replacement Parts shall be free and clear of all liens, encumbrances and rights of others and shall be in as good operating condition as, and shall have a value, utility and remaining useful life at least equal to, the Parts replaced assuming such replaced Parts were in the condition and repair required to be maintained by the terms hereof. All Parts at any time removed from any Item of Equipment shall remain the property of Lessor, no matter where located, until such time

as such Parts shall be replaced by Parts which have been incorporated or installed in or attached to an Item of Equipment and which meet the requirements for replacement Parts specified above. Immediately upon any replacement Part becoming incorporated or installed in or attached to an Item of Equipment as above provided, without further act (i) title to the replaced Part shall thereupon vest and remain in Lessee, free and clear of all rights of Lessor, (ii) title to such replacement Part shall thereupon vest in Lessor and (iii) such replacement Part shall become subject to this Lease and deemed part of the Equipment for all purposes hereof to the same extent as the Parts originally incorporated or installed in or attached to an Item of Equipment.

(c) Alterations, Modifications and Additions.

Lessee shall make such alterations and modifications in and additions to each Item of Equipment as may be required from time to time to meet the standards of any governmental authority in the manner set forth in Section 8(b) hereof. In addition, Lessee, at its own expense, may (upon notice to Lessor and Secured Lender) from time to time make such alterations and modification in and additions to, and (with the consent of Lessor and Secured Lender) substitutions of, any Item of Equipment as Lessee may deem desirable in the proper conduct of its business, including removing of Parts which Lessee deems obsolete or no longer suitable or appropriate for use in the Equipment; provided that no such alteration, modification or addition diminishes the value, utility, condition and remaining

useful life of such Item below the value, condition and remaining useful life thereof immediately prior to such alteration, modification or addition, assuming such Item was then in the condition required to be maintained by the terms of this Lease. Title to all Parts incorporated or installed in or attached or added to any Item of Equipment as the result of such alteration, modification or addition shall, without further act, vest in Lessor; provided that, so long as no Event of Default (or an event which would constitute an Event of Default upon lapse of time or notice or both) shall have occurred and be continuing, at any time during the Term Lessee may at its own expense remove any such Part if (i) such Part is in addition to, and not in replacement of or substitution for, any Part originally incorporated or installed in or attached to such Item at the time of delivery thereof hereunder or any Part in replacement of, or substitution for any such Part, (ii) such Part is not required to be incorporated or installed in or attached or added to such Item pursuant to Section 8(b) hereof and can be removed from such Item without diminishing or impairing the value, utility or remaining useful life which such Item would have had at such time had such alteration, modification or addition not occurred. Upon the removal by Lessee of any Part as above provided, title thereto shall, without further act, vest in Lessee and such Part shall no longer be deemed part of the Equipment. Any Part not removed by Lessee as above provided prior to the return of such Item to Lessor hereunder shall remain the property of Lessor.

(d) Accession. Any and all replacements, repairs or substitutions or parts of the Equipment shall constitute accessions to the Equipment and title thereto shall vest and remain in Lessor.

Section 10. LOSS, DESTRUCTION OR REQUISITION

(a) Payment of Stipulated Loss Value. If any Item of Equipment shall be the subject of an Event of Loss, Lessee shall, on the Lease Rental Date for such Item next following occurrence the date of such ~~notice~~ pay to Lessor the Stipulated Loss Value for such Item applicable to such Lease Rental Date, and any unpaid instalment of Basic Rent payable with respect to any Lease Quarterly Period preceding the Lease Rental Date on which such Stipulated Loss Value payment is made. Upon payment in full of such Stipulated Loss Value and Basic Rent, (i) the obligation of Lessee to pay Basic Rent hereunder with respect to such Item shall terminate for any Lease Quarterly Period commencing on or after the Lease Rental Date on which such Stipulated Loss Value payment is made, (ii) the Term for such Item shall end and (iii) Lessor will, upon receipt of Lessee's written request (except while an Event of Default shall have occurred and be continuing), transfer to Lessee, without recourse or warranty, all Lessor's right (including, without limitation, any right of Lessor against any person

responsible for the occurrence of such Event of Loss), title and interest, if any, in and to such Item, subject to any underwriter's or interchange user's or sublessee's rights therein.

(b) Postponement of Payment. Notwithstanding anything contained in paragraph (a) above requiring payment on a Lease Rental Date, Lessee may postpone such payment for a period not exceeding 30 days provided that Lessee pays interest at the rate of 10% per annum on the amount so paid from such Lease Rental Date or the expiration of the Term for such Item, as the case may be, to the date of such payment.

Section 11. RISK OF LOSS: CLAIMS AGAINST THIRD PERSONS

(a) Risk of Loss. Lessee shall bear the risk of, and (except as provided otherwise herein) shall not be released from its obligations hereunder in the event of, any damage, loss, theft, or destruction, partial or complete, of the Equipment subject to this Lease from whatsoever source arising.

(b) Claims Against Third Persons. So long as no Event of Default has occurred and is continuing, Lessee shall be entitled to the proceeds of any claim or right of Lessor or Lessee against third persons for injury, damage or loss with respect to the Equipment or the use or operation thereof up to the amount paid by Lessee to Lessor as a consequence thereof or the cost of any repairs or replacement equipment required to be paid by Lessee hereunder with respect to the incident giving rise to such claim or right, including the amount of the

Stipulated Loss Value if such has been paid be Lessee, and Lessee shall be subrogated to such extent to all of Lessor's rights of recovery therefor against any other person, firm or corporation. The proceeds of any claim or right in excess of the foregoing shall be the sole and exclusive property of Lessor. Lessor shall execute and deliver from time to time such instruments and do such other matters and things as may be necessary or appropriate more fully to vest in Lessee such proceeds or to effect such subrogation; provided that all costs and expenses, including court costs and attorneys' fees, in connection with enforcing or realizing upon any such claim or right to proceeds, or obtaining enforcement of or realizing upon such right of subrogation, shall be borne and paid be Lessee.

Section 12. INSURANCE

Lessee shall at all times during the Term of this Lease and at its own cost and expense, maintain public liability and property damage insurance with respect to the Equipment in amounts customarily carried by Lessee on property of a similar character which it owns.

Section 13. INDEMNIFICATION AND EXPENSES

(a) General Indemnity. Except as otherwise provided herein, Lessee hereby agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume liability for, and does hereby agree to indemnify, protect, save

and keep harmless Lessor, Secured Lender and their respective successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements including legal fees and expenses, of whatsoever kind and nature and regardless of the cause thereof, imposed on, incurred by or asserted against Lessor or Secured Lender or any of their respective successors, assigns, agents and servants, in any way relating to or arising out of the Acquisition Agreements, the manufacture, purchase, acceptance or rejection under the Acquisition Agreements, or the ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of any Item of Equipment (including, without limitation, strict liability in tort, latent and other defects, whether or not discoverable by Lessor or Lessee, claims resulting from any accident in connection with the operation, use, condition, possession or storage of any Item of Equipment resulting in damage to property or injury or death to any person, and any claim for patent, trademark or copyright infringement), except only that Lessee shall not be required to indemnify Lessor, Secured Lender or their respective successors, assigns, agents and servants, for loss or liability in respect of an Item of Equipment resulting from the willful misconduct or negligence of the party otherwise to be indemnified hereunder (other than any negligence attributable to Lessor merely on account of ownership of the Equipment or to Lessor or Secured Lender on account of action or inaction by any party other than the Lessor or Secured Lender). If either party

hereto shall have knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the other party. Upon payment in full of any indemnities contained in this Section 13(a) by Lessee, Lessee shall be subrogated to any rights of the individual or corporation indemnified in respect of the matter against which indemnity has been given.

(b) Particular Indemnity. Without limitation of Section 13(a) hereof, Lessee agrees to pay to the Vendor of, or any person furnishing goods or services in connection with any Item of Equipment any amounts owing under the Acquisition Agreement or otherwise with respect of such Item of Equipment not included in Lessor's Cost thereof. Lessee's obligations under Sections 13(a) and 13(b) hereof shall be that of primary obligor irrespective of whether the individual or corporation indemnified shall also be indemnified with respect to the same matter under the Acquisition Agreement by any other person.

(c) Indemnity for Loss of Depreciation or Interest Deductions. If Lessor shall not for any reason (except as hereinbelow provided) be entitled to the benefit of the accelerated method of depreciation provided in Section 167(b) (2) of the Code, with respect to Series B Equipment, or deductions in respect of interest paid or accrued on the Loan as provided in Section 163(a) of the Code in reporting its taxable income for each year during which this Lease is in effect, except, subject to paragraph (d) of this Section 13, for any inability to benefit from such depreciation or interest deduction because of the occurrence of any of the following events:

(i) an Event of Loss shall occur with respect

to an Item of Equipment and Lessee shall perform in full its obligation pursuant to Section 10 hereof;

(ii) a voluntary transfer, at any time while such Item is leased under this Lease and no Event of Default has occurred under this Lease and is continuing unremedied, without the consent of Lessee, by Lessor of legal title to such Item to anyone (not including any transfer pursuant to Section 10 hereof) or a disposition by Lessor of any interest in the profits from such Item if such transfer by Lessor or such disposal or reduction by Lessor shall be the direct cause of such loss;

(iii) Lessor shall, after receipt of a reasonable request to do so by Lessee as provided in, and subject to the terms of, Section 13(a) hereof, fail to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such depreciation or interest deduction for such Item and such failure shall preclude the right of Lessor to contest such claim;

(iv) Lessor shall fail to claim such depreciation or interest deduction for such Item in its income tax returns for the appropriate year or shall fail to follow the proper procedure in claiming such depreciation or interest deduction or to follow such procedure, as the case may be, shall preclude Lessor from claiming such depreciation or interest deduction;

(v) the failure of Lessor to have sufficient gross income from which to subtract the depreciation or interest deduction in computing taxable income within the meaning of Section 63(a) of the Code; or

(vi) such depreciation deduction for such Item shall be disallowed solely by reason of change in relevant law;

then Lessee agrees to pay Lessor an indemnity with respect to such loss of depreciation or interest deductions determined as provided below.

The indemnity payment required by this Section 13(c) shall be a sum which, after deduction of all taxes required to be paid by Lessor in respect of the receipt of such sum under the laws of any Federal, state or local government or taxing authority in the United States, shall be equal to the amount of the benefits so lost and plus the amount of interest ^{because} ~~because~~ (including any additions to tax ~~because~~ of underpayment of estimated tax) which may be payable to the United States Government by Lessor in connection with such loss, and, except as otherwise provided in Section 13(e) hereof, shall be payable at such time as the tax attributable to such loss is payable (but not sooner than 30 days after receipt by Lessee of written notice from Lessor).

(d) Indemnity for Loss of Investment Credit. If there shall be a disallowance, elimination, reduction, or

disqualification to Lessor of the 7% investment credit allowed by Section 38 of the Code, in whole or in part, for any Series B Item or Items of Equipment, then Lessee agrees to pay Lessor an indemnity payment with respect to such loss of investment credit determined as provided below.

The indemnity payment required by this Section 13(d) shall be a sum which, after deduction of all taxes required to be paid by Lessor in respect of the receipt of such sum under the laws of any Federal, state or local government or taxing authority in the United States, shall be equal to the amount of the benefits so lost plus the amount of interest (including any additions to tax because of underpayment of estimated tax) which may be payable to the United States Government by Lessor in connection with such loss, and, except as otherwise provided in Section 13(e) hereof, shall be payable at such time as the tax attributable to such loss is payable (but not sooner than 30 days after receipt by Lessee of written notice from Lessor). Notwithstanding the foregoing provisions of this paragraph (d), Lessee shall not be required to pay the amounts hereinbefore provided if such loss shall result from the occurrence of any of the following events:

(i) a voluntary transfer, at any time while any such Item is leased under this Lease and no Event of Default has occurred under this Lease and is continuing unremedied, without the written consent of Lessee, by Lessor of legal title to such Item to anyone (not including

any transfer pursuant to Section 10 of this Lease) or a disposition by Lessor of any interest in such Item or a reduction by Lessor of its interest in the profits from such Item, at any such time without the written consent of Lessee, if such transfer by Lessor or such disposal or reduction by Lessor shall be the direct cause of such loss;

(ii) the failure of Lessor to have sufficient liability for tax within the meaning of Section 45(a) of the Code against which to credit such investment credit for such Item;

(iii) the failure of Lessor to claim such investment credit for such Item in its income tax returns for the appropriate year or to follow the proper procedure in claiming such investment credit in such tax returns for such year, if such failure to claim such investment credit or to follow such procedure, as the case may be, shall preclude Lessor from claiming such investment credit;

(iv) Lessor shall, after receipt of a reasonable request to do so by Lessee as provided in, and subject to the terms of, Section 13(a) hereof, fail to take timely action in contesting a claim made by the Internal Revenue Service with respect to the loss of such investment credit for such Item pursuant to Section 13(e)

hereof if such failure shall preclude the right of Lessor to contest such claim; or

(v) an Event of Loss shall occur with respect to such Item and Lessee shall perform in full its obligations pursuant to Section 10 hereof;

If (A) Lessee shall have made a payment to Lessor required by the terms of this paragraph (d) for the loss or disallowance of any portion of such investment credit or (B) Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed, any portion of such investment credit or Lessor shall be required to increase its Federal income taxes in any year for the reason that any Equipment is disposed of or ceases to be Section 38 property and, in any of the foregoing cases Lessor shall have no right of indemnification under this paragraph (d) against Lessee for such loss, disallowance or increase in Federal income taxes, then in either event the Termination and Stipulated Loss Values for the Equipment as of each Lease Rental Date on or after the date of such payment, loss or disallowance shall be reduced by the appropriate portion of the amount, if any, included therein which represents reimbursement to Lessor (or which would represent such reimbursement if this indemnity of this paragraph (d) applied) for the portion of such investment credit so lost or disallowed or the amount of Federal income taxes so increased as set forth in Exhibit C.

(e) Contest of Disallowance of Tax Benefits. In the event a claim shall be made by the Internal Revenue Service with

respect to the disallowance of such investment credit or depreciation or interest deductions with respect to any Item of Equipment and Lessee shall be required to indemnify Lessor for the loss caused by such disallowance, Lessor hereby agrees to take such action in connection with contesting such claim as Lessee shall reasonably request from time to time, provided that: (i) within 30 days after notice by Lessor to Lessee of such claim, Lessee shall request that such claim be contested; (ii) Lessor, at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court and/or the United States Court of Claims, as Lessor shall elect, or contest such claim in the Tax Court of the United States, considering, however, in good faith such request as Lessee shall make concerning the most appropriate forum in which to proceed; (iii) prior to taking such action, Lessee shall have furnished Lessor with an opinion of its tax counsel to the effect that the likelihood of a meritorious defense exists to such claim; and (iv) Lessee shall have indemnified Lessor in a manner satisfactory to it for any liability or loss which Lessor may incur as the result of contesting such claim and shall have agreed to pay Lessor on demand all costs and expenses

which Lessor may incur in connection with contesting such claim, including, without limitation, (A) reasonable attorneys' and accountants' fees and disbursements, (B) the amount of any interest or penalty which may ultimately be payable to the United States Government as the result of contesting such claim, and (C) in the event Lessor shall pay the tax claimed and then seek a refund and the final determination of such claim shall be adverse to Lessor, interest at 10% per annum on the amount of the tax paid attributable to the portion of the investment credit or depreciation or interest deduction disallowed by such claim, computed from the date of payment of such tax in accordance with the terms hereof to the date of payment by Lessee to Lessor of such interest. If any such claim referred to above shall be made by the Internal Revenue Service and Lessee shall have reasonably requested Lessor to contest such claim as above provided and shall have duly complied with all of the terms of this Section 13, Lessee's liability with respect to the investment credit or depreciation or interest deduction disallowed by such claim shall become fixed upon final determination of Lessor's liability for the tax claimed and after giving effect to any refund obtained, together with interest thereon; but in all other cases the liability of Lessee shall become fixed at the time Lessor makes payment of the tax attributable to the portion of the investment credit or depreciation or interest deduction lost. In the case of any such claim by the

Internal Revenue Service referred to above, Lessor agrees to promptly notify Lessee in writing of such claim and agrees to give to Lessee any relevant information relating to such claim which may be particularly within the knowledge of Lessor and shall otherwise cooperate with Lessee in good faith in order to effectively contest any such claim.

(f) Application and Continuance of Indemnities.

The indemnities contained in paragraphs (a) and (b) of this Section 13 shall apply whether or not any Item of Equipment is delivered hereunder. Except as otherwise provided, the indemnities contained in this Section 13 shall continue in full force and effect as to events occurring or accruing prior to expiration or termination of this Lease and the full and complete performance by Lessee of its obligations hereunder notwithstanding the expiration or other termination of this Lease.

Section 14. INSPECTION

At all reasonable times Lessor or its authorized representatives may inspect each Item of Equipment and the books and records of Lessee relative thereto. Lessor shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of not making any such inspection.

Section 15. ASSIGNMENT

Lessee will not, without the prior written consent of Lessor (which shall not be unreasonably withheld), assign any of its rights hereunder. The rights and obligations of

Lessor and Lessee hereunder shall inure to the benefit of, and be binding upon, the successors and, to the extent any assignment is permitted hereunder, assigns of Lessor and Lessee, respectively.

Neither Secured Lender nor any assignee solely for purposes of collateral shall be obligated to perform any duty, covenant or condition required to be performed by Lessor under any of the terms hereof, but on the contrary, Lessee by its execution hereof acknowledges and agrees that notwithstanding any such assignment each and all such covenants, agreements, representations and warranties of Lessor shall survive any such assignment and shall be and remain the sole liability of Lessor and of every person, firm or corporation succeeding (by merger, consolidation, purchase of assets or otherwise) to all or substantially all of the business, assets or goodwill of Lessor.

Section 16. EVENTS OF DEFAULT

The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) Lessee shall fail to make any payment of Rent within twenty-five (25) days after the same shall have become due; or

(b) Lessee shall fail to carry and maintain insurance on the Equipment in accordance with the provision of Section 12 hereof; or

(c) Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof; or

(d) Lessee shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder or under any Acquisition Agreement (other than the covenants referred to in paragraphs (a), (b) and (c) above), and such failure shall continue unremedied for a period of thirty days after written notice thereof by Lessor; or

(e) any representation or warranty made by Lessee herein or in any document or certificate furnished Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material respect; or

(f) any obligation of Lessee for the payment of borrowed money or for the deferred purchase price of property shall not be paid when the same becomes due (other than by reason of acceleration) and the applicable grace period, if any, with respect thereto, as the same may be extended by consents or waivers shall elapse, or any such obligation shall be accelerated and such acceleration shall not be complied with or rescinded or annulled

within ten days after the occurrence thereof; or

(g) Lessee shall consent to the appointment of a receiver, trustee or liquidator of itself or of a substantial part of its property, or Lessee shall commit any act of bankruptcy or insolvency or admit in writing its inability to pay its debts generally as they become due, or shall make a general assignment for the benefit of creditors, or Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against Lessee in any such proceeding, or Lessee shall by voluntary petition, answer or consent, seek relief under the provision of any other now existing or future bankruptcy or other similar law providing for the reorganization or winding-up of corporations, or providing for an agreement, composition, extension or adjustment with its creditors; or

(h) an order, judgment or decree shall be entered by any court of competent jurisdiction, without the consent of Lessee, appointing a receiver, trustee or liquidator of Lessee or of any substantial part of its property, or any substantial part of the property of Lessee shall be sequestered, and any such order, judgment or decree of appointment or sequestration shall remain in force undismissed, unstayed or unvacated

for a period of ninety days after the date of entry thereof; or

(i) a petition against Lessee in a proceeding under the Federal bankruptcy laws or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within ninety days thereafter, or if, under the provision of any law providing for reorganization or winding-up of corporations which may apply to Lessee, any court of competent jurisdiction, custody or control of Lessee or of any substantial part of its property and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unterminated for a period of ninety days; or

(j) final judgment for the payment of money in excess of \$250,000 shall be rendered against Lessee and the same shall remain undischarged for a period of ninety days during which execution of such judgment shall not be effectively stayed; provided that this paragraph (j) shall not be applicable to any final judgment for the payment of money, the amount of which shall be within the policy limits of applicable insurance.

Section 17. REMEDIES

Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may, at its option, declare this Lease to be in default; and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may, except as otherwise provided herein, do one or more of the

following with respect to all or any part of any or all of the Equipment as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect; provided that Lessor shall not exercise any remedy which exercise would be inconsistent with the exercise by Lessor of any other remedy hereunder:

(a) cause Lessee, upon the written demand of Lessor and at Lessee's expense, to promptly assemble and return all or such part of the Equipment as Lessor may demand to Lessor to a point in the United States designated by Lessor in the manner and condition required by, and otherwise in accordance with all the provisions hereof as if such Equipment were being returned as provided for in Section 5 hereof at the end of the Term of this Lease; or Lessor, at its option, may enter upon the premises where all or any part of the Equipment is located and take immediate possession of the Equipment or one or more Items thereof, without liability to return to Lessee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 17 expressly provided, and may remove the same from possession and use of Lessee or any other person and for such purpose may enter upon the Lessee's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of Lessee remove the same

by summary proceedings or otherwise, all without liability on the part of Lessor for or by reason of such entry or taking of possession, whether for restoration of damage to property caused by such taking or otherwise. In case Lessor shall demand possession of the Equipment pursuant to this Lease and shall reasonably designate a point or points upon the premises of Lessee for the delivery of the Equipment to Lessor, Lessee shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be designated by Lessor and shall there deliver the Equipment or cause it to be delivered to Lessor. This agreement to deliver the Equipment as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance hereof. Lessee hereby expressly waives any and all claims against Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner;

(b) sell all or any part of the Equipment at public or private sale, with or without notice to Lessee or advertisement as Lessor, in its sole discretion, may determine, all free and clear of any rights of Lessee except as herein set forth in this Section 17, and Lessee

shall forthwith pay to Lessor, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Rent for the Equipment due for Lease Quarterly Periods after that in which such sale occurs), any unpaid Rent with respect to any Lease Quarterly Period during or prior to which such sale occurs, plus any deficiency between the "net proceeds" of such sale (as defined below) and the Termination Value computed as of the Lease Rental Date next following the date on which such sale takes place, together with interest at the rate of 10% per annum on the amount of such deficiency from the date of such sale until the date of actual payment;

(c) with respect to all or any part of the Equipment, Lessor, by written notice to Lessee specifying a payment date, which shall be the next Lease Rental Date following (but not earlier than 10 days from) the date of such notice, may cause Lessee to pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of Rent for the Equipment due on or after the payment date specified in such notice), any unpaid Rent for such Equipment due for Lease Quarterly Periods prior to the Lease Quarterly Period commencing with the payment date specified in such notice (together with interest on such amount at the rate

of 10% per annum from the payment date specified in such notice to the date of actual payment): (i) an amount equal to the excess, if any, of the Termination Value for such Equipment, computed as of the Date specified in such notice, over the aggregate fair market rental value (computed as hereinafter in this Section 17 provided) of such Equipment for the remainder of the Term, after discounting at 10% per annum such aggregate fair market rental value quarterly (effective on the Lease Rental Dates for such Equipment) to present worth as of the payment date specified in such notice or (ii) an amount equal to the excess, if any, of the Termination Value of such Equipment as of the Date specified in such notice over the fair market sales value of such Equipment (computed as hereinafter in this Section 17 provided) as of the payment date specified in such notice;

(d) use, operate or lease, or (for a period not exceeding 30 days after Lessee shall have returned all Equipment to Lessor pursuant to paragraph (a) of this Section 17, unless prior to the end of such 30 day period Lessor has initiated action under paragraphs (b), (c) or (f) of this Section 17) hold or keep idle any Equipment as Lessor in its sole discretion may determine, without any duty to account to Lessee with respect to any such action or inaction or for any proceeds

thereof, except that the net proceeds of any such holding, using, operation or lease shall be credited by Lessor against any or all Rent accruing after Lessor shall have declared this Lease to be in default pursuant to this Section 17;

(e) rescind this Lease as to any or all Equipment, or may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof; and/or

(f) terminate this Lease as to any or all Equipment, upon 10 days' written notice to Lessee, whereupon Lessee shall, without further demand, as liquidated damages for loss of a bargain and not as a penalty, forthwith pay to Lessor any unpaid Rent due on or before the date of termination plus an amount equal to the higher of (A) the Termination Value of such Equipment computed as of the Lease Rental Date for such Equipment next following the date of such termination, or (B) the aggregate fair market rental value or aggregate fair market sales value (whichever is the greater) of Equipment determined as hereinafter in this Section 17 provided, together with interest at the rate of 10% per annum on such amount from the effective date of termination to the date of actual payment, and upon full payment of such Rent and other amounts referred to

in the first sentence of the next paragraph of this Section 17, Lessor shall execute and deliver to Lessee or to Lessee's assignee or nominee a bill of sale for such Equipment (without recourse and without representations or warranties of any kind except that such Equipment is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under Lessor) and such other documents as may be required to release such Equipment from the terms and scope of this Lease and transfer such title thereto to Lessee or such assignee or nominee, all at Lessee's expense.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before, after or during the exercise of Lessor's remedies any of the foregoing remedies, and in any event shall be liable for all legal fees, costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise with respect thereto, including all costs and expenses incurred in connection with the reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Equipment in accordance with the terms of Section 5 hereof or in placing such Equipment in the condition required by said Section 5 and by Section 8 hereof. For the purpose of paragraphs (c) and

(f) above the "aggregate fair market rental value" or the "fair market sales value" of any Equipment shall be determined in the manner set forth in Section 22 hereof except that there shall be only one appraiser, appointed by Lessor, and the costs of such appraisal shall be borne by Lessee.

For the purpose of paragraph (b) above the "net proceeds" of any sale shall mean the purchase price for which any Equipment is sold, less the amount of any payments made, or to be made, in connection with such sale (including, without limitation, any costs and expenses of foreclosure or suit, if any, and the reasonable compensation of the agents, attorneys and the counsel of Lessor and Secured Lender and of all proper expenses, liability and advances incurred or made hereunder by Lessor and Secured Lender, and any taxes, assessments or liens superior to the lien of this Agreement, except any taxes, assessments or other superior lien subject to which said sale may have been made). At any sale of Equipment pursuant to this Section 17 Lessor may bid for and purchase such Equipment. No remedy referred to in this Section 17 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude

the simultaneous or later exercise by Lessor of any or all of such other remedies. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default.

LESSEE HEREBY WAIVES ANY CONSTITUTIONAL RIGHT IT MAY HAVE TO A JUDICIAL HEARING AND NOTICE THEREOF PRIOR TO REPOSSESSION OR REPLEVIN OF THE EQUIPMENT BY LESSOR OR ITS ASSIGNS PURSUANT TO THIS SECTION 17, PROVIDED THAT NOTHING IN THIS PARAGRAPH SHALL BE DEEMED A WAIVER OF ANY RIGHT LESSEE MAY HAVE UNDER THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW.

Section 18. FEDERAL BANKRUPTCY ACT

The title of Lessor to each Item of Equipment and any right of Lessor to take possession of such Item in compliance with the provisions of this Lease shall not be affected by the provisions of Chapter X of the Federal Bankruptcy Act, as amended.

Section 19. LESSOR'S RIGHT TO PERFORM FOR LESSEE

If Lessee fails to make any payment of Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein Lessor may itself make such payment or perform or comply with such agreement and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate of 10% per annum, shall be deemed Supplemental Rent, payable by Lessee upon demand.

Section 20. ICC AND UCC FILINGS, FURTHER ASSURANCES; REPORTS

(a) ICC and UCC Filings, Further Assurances.

Forthwith upon completion of execution and delivery of each Lease Supplement, Lessee will cause (at no expense to Lessee) such Supplement, and in the case of the first such filing, this Lease, to be delivered to special ICC counsel for filing with the ICC. In addition, Lessee will promptly and duly execute and deliver to Lessor and to such other persons as Lessor shall reasonably designate such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of Lessor and Secured Lender hereunder.

(b) Reports. Lessee shall furnish Lessor and Secured Lender:

(i) within 120 days after the close of each fiscal year of Lessee, a consolidated balance sheet of Lessee and its consolidated subsidiaries as to the close of such fiscal year, together with the related consolidated statements of income and of surplus for such fiscal year, for Lessee and its consolidated subsidiaries, as prepared and certified by independent public accountants, including their certificate and accompanying comment;

(ii) upon request, within 60 days after the close of each fiscal year of Lessee, an accurate statement, as of the preceding December 31 (a) showing the amount,

description and numbers of the Items of Equipment then Leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (B) stating that, in the case of any Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Section 8(d) hereof shall have been preserved or replaced;

(iii) from time to time such other information as Lessor may reasonably request.

(iv) within a reasonable time prior to the required date of filing any and all reports known by Lessee to be required to be filed by Lessor, or requested by Lessor to be filed, with any Federal, state or other regulatory authority by reason of the interest of Lessor in the Equipment or the leasing the the Equipment to Lessee.

Section 21. NOTICES

All notices required under the terms and provisions hereof shall be in writing, and any such notice shall become effective when deposited in the United States mail, with proper postage for ordinary mail prepaid, addressed as follows:

- (i) to Lessee at Williamsburg, Virginia 23185
Attention: Vice President - Finance
- (ii) to Lessor at 111 West Jackson Boulevard,
Chicago, Illinois 60604, Attention: President
- (iii) to Secured Lender at its National Division,
Leasing Department #656, Box 37070,
555 California Street, San Francisco,
California 94137.

or at such other address as may have been furnished in writing by one of the above persons to the others.

Section 22. PURCHASE OPTION; RENEWAL OPTION

(a) Notice by Lessor. Not more than 210 days and not less than 190 days before the end of the Term for any Item of Equipment, Lessor shall endeavor to notify Lessee of the potential application of this Section 22, provided that Lessor shall not be liable to Lessee or any other person, and the provisions of this Section 22 shall not be impaired, on account of any failure of Lessor to give such notice.

(b) Appraisals. Not more than 180 days and not less than 150 days before the end of the Term for any Item of Equipment, Lessee may, provided that no Event of Default hereunder shall have occurred and be continuing, deliver to Lessor a written notice appointing an appraiser selected by Lessee to determine the fair market sales value and the fair market rental value of such Item as provided below in this paragraph (b). The appraiser appointed in said written notices

shall meet promptly to determine the fair market sales value and the fair market rental value of such Item, as of the end of the Term therefor. Any determination of such values shall be made on the assumption that such Item will, at the end of such Term, be free and clear of all liens, encumbrances and rights of others and in the condition as would be required upon the return of the Equipment pursuant to Section 5 hereof. If within 30 days after receipt of any such written notice from Lessee, the two appraisers selected by Lessor and Lessee, respectively, shall be unable to agree upon such values, Lessor and Lessee shall within 5 days thereafter appoint a third appraiser. If Lessor and Lessee do not agree upon the appointment of a third appraiser, then either of them, on behalf of both, may request such appointment by the then President of the American Arbitration Association or, in his absence, failure, refusal or inability to act, then either Lessor or Lessee may apply to any court of competent jurisdiction for the appointment of such third appraiser, and the other party shall not raise any question as to such court's full power and jurisdiction to entertain the application and make the appointment. In the event of the failure, refusal or inability of any appraiser to act, his successor shall be appointed within 10 days by the party who originally appointed him; but in the case of the third appraiser his successor shall be appointed as hereinbefore provided. The decisions of the appraisers so appointed shall be given within a period of 10 days after the appointment of such third

appraiser. Any decision in which any two appraisers so appointed and acting hereunder concur shall in all cases be binding and conclusive upon Lessor and Lessee.

(c) Options. Not more than 30 days after a decision of the appraisers which is binding and conclusive upon Lessor and Lessee shall have been rendered, Lessee may, provided that no Event of Default hereunder shall have occurred and be continuing, deliver to Lessor a written notice electing (i) to purchase such Items for a purchase price equal to the fair market sales value thereof as determined by the appraisers or (ii) to renew this Lease (except this clause ii) as to such Item for one one-year renewal term at a rental rate equal to the fair market rental value determined in the manner provided in paragraph (a) of this Section 22, payable monthly in advance; provided that Lessee shall not be entitled to give such notice later than 30 days before the end of the Term for such Item, regardless of whether any such decision shall have been rendered theretofore. If no such written notice is delivered by Lessee to Lessor prior to the last 30 days of such Term, Lessee shall be deemed to have waived any right to purchase such Item or renew this Lease as to such Item. At the end of the Term for any Item of Equipment, if Lessee has so elected to purchase such Item as aforesaid, Lessee shall be obligated to purchase from Lessor, and Lessor shall be obligated to sell to Lessee such Item free of all liens and claims created by any person claiming by, through or under Lessor which Lessee is not obligated hereunder to remove and Lessee shall make payment of the purchase price by delivery of a certified of bank cashier's or official check in

the amount thereof and thereupon Lessor shall transfer such Item to Lessee, without any recourse and without representation or warranties of any kind except that such Item is free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under Lessor which Lessee is not obligated hereunder to remove. Lessee shall be responsible for and shall pay any and all taxes due on amount of the sale of such Item to it by Lessor. Lessor and Lessee shall pay the fees and expenses of the respective appraisers appointed by them and shall share equally the fees and expenses of the third appraiser, if any.

Section 23. LESSEE'S INTEREST IN EQUIPMENT

Lessee acknowledges and agrees that it has not, and by the execution hereof it does not have or obtain, and by payments and performance hereunder it does not and will not have or obtain, any title to the Equipment, nor any property right or interest, legal or equitable, thereunder, except solely as a lessee hereunder and subject to all the terms hereof.

Section 24. MISCELLANEOUS

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law Lessee hereby waives any provision

of law which renders any provision hereof prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in any Item of Equipment except as a lessee only. In addition, nothing herein contained shall be construed as an election by Lessor to treat Lessee as having acquired the Equipment for purposes of the investment credit allowed by Section 38 of the Internal Revenue Code of 1954, as amended, or any successor to said Section. ~~Lessee agrees that it has not and will not make any action and has not made and will not make any representations and warranties which will cause Lessor to lose the benefits of such investment credit without the express written consent of Lessor.~~ The captions in and table of contents to this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. This Lease shall in all respects be governed by, and construed in accordance with, the laws of the State of Illinois, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Lease to be duly executed as of the day and

year first above written.

LESSOR

TRANS UNION LEASING CORPORATION

ATTEST: [seal]

BY

[Signature]
ASST. SECRETARY

BY

[Signature]
PRESIDENT

LESSEE

DOW BADISCHE COMPANY

ATTEST: [seal]

BY

BY

THIS LEASE AND ALL RENTS AND OTHER SUMS DUE AND TO BECOME
DUE HEREUNDER ARE SUBJECT TO A SECURITY INTEREST IN FAVOR
OF BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION,
AS SECURED PARTY UNDER THE SECURITY AGREEMENT DEFINED IN
THE LEASE.

STATE OF ILLINOIS)
COUNTY OF COOK) ss.:

On this 27th day of December, 1973, before me personally appeared R. D. RINGE, to me personally known, who, being by me duly sworn, says that he is a PRESIDENT of TRANS UNION LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Melvin W. Helford
Notary Public

[Notarial Seal]
My Commission expires 8/6/76.

COMMONWEALTH OF VIRGINIA)
CITY OF WILLIAMSBURG) ss.:

On this 20th day of ~~December~~^{November}, 1973, before me personally appeared J. B. Rowell, to me personally known, who, being by me duly sworn, says that he is a Financial Vice President of DOW BADISCHE COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Melvin W. Helford
Notary Public

[Notarial Seal]
My Commission expires 30 May 1976.

EXHIBIT A
TO
LEASE AGREEMENT

DESCRIPTION OF EQUIPMENT

Series A:

| <u>Type</u> | <u>Builder's Specification</u> | <u>Quantity</u> | <u>Maximum Lessor's Cost (per Item)</u> | <u>Maximum Lessor's Cost (total)</u> |
|--|---|-----------------|---|--------------------------------------|
| 400 cubic foot 100 ton capacity aluminum covered hopper cars manu- factured by Magor Car Corporation; AAR Mechanical Designation LO | Magor Car Corporation Specification No. 5291 dated October 7, 1964, as modified | 39 | \$23,000 | \$897,000 |

Series B:

| <u>Type</u> | <u>Builder's Specification</u> | <u>Quantity</u> | <u>Maximum Lessor's Cost (per Item)</u> | <u>Maximum Lessor's Cost (total)</u> |
|--|--|-----------------|---|--------------------------------------|
| 10 ton roller- bearing CF5250 Center Flow covered hopper cars manufactured by ACF; AAR mechanical Designation LO | Lot 75-09330 | 7 | \$39,100 | \$273,700 |
| 1,150 gallon coiled insulated aluminum tank cars manufactured by GATX; AAR mechanical Designation DOT- 11A60AL-W1 | GATX estimate Data sheet TC-5319 dated April 16, 1973 | 10 | \$45,000 \$44,235 | \$450,000 \$442,350 |

The interest of Lessor under this Lease Supplement is subject to a security interest.

EXHIBIT B
TO
LEASE AGREEMENT

LEASE SUPPLEMENT NO. _____

THIS LEASE SUPPLEMENT NO. _____, dated _____, 19__, is entered into between Trans Union Leasing Corporation, a Delaware corporation ("Lessor") and Dow Badische Company, a Delaware corporation ("Lessee") with reference to the following:

A. Lessor and Lessee entered into a certain Equipment Lease Agreement dated as of November 1, 1973 (as supplemented and amended from time to time, herein called the "Lease Agreement", the defined terms therein being used herein with the same meanings), which Lease Agreement provides in Section 1 thereof for the execution of a Lease Supplement substantially in the form hereof for the purpose of leasing specific Equipment under the Lease Agreement on the Payment Date therefor.

*B. A counterpart of the Lease Agreement was attached to and made a part of Supplement No. 1 thereto, which documents were duly recorded by the Interstate Commerce Commission ("ICC") as one document pursuant to Section 20c of the Interstate Commerce Act on _____, 1973 and assigned Recordation No. _____.

**C. Lessee and Lessor executed and delivered an additional Supplement to the Lease Agreement on _____,

*the language of this paragraph to be modified in the case of Supplement No. 1.

**For use in Supplement No. 3, and, with appropriate revision, in any subsequent Supplement.

1973, subjecting certain additional equipment described in such Supplement to the Lease Agreement, which was duly recorded by the ICC on _____, 1973 and assigned Recordation No. _____. Such additional equipment is deemed to be included in the term "Equipment" within the meaning of the Lease Agreement.

D. The Equipment referred to below is acceptable to Lessee, and Lessee desires to accept such Equipment under the Lease Agreement.

NOW THEREFORE, in consideration of the premises and the other good and sufficient consideration, and pursuant to Section 1 of the Lease Agreement, Lessor and Lessee hereby agree as follows:

1. Lessor hereby delivers and leases to Lessee, and Lessee hereby accepts and leases from Lessor, under the Lease Agreement, as herein supplemented, the Equipment described in the Schedule hereto (the "Delivered Equipment").

2. The Payment Date for the Delivered Equipment is the date of this Lease Supplement.

3. Lessor's Cost for the Delivered Equipment is \$_____, and Lessor's Cost for each Item thereof is set forth in the Schedule hereto.

4. The Term for the Delivered Equipment shall be _____ years, commencing on _____ and continuing until _____.

5. Lessee hereby agrees to pay Basic Rent for the Delivered Equipment with respect to the Term therefor in _____ consecutive quarterly instalments, each in the amount of \$_____, the first of which shall be due on _____ and the remaining _____ of which shall be due on each of the next _____ Lease Rental Dates for such Equipment. Each such Basic Rent payment shall cover, and shall be deemed paid for, the Lease Quarterly Period preceding the Lease Rental Date on which such payment is due.

6. Lessee hereby confirms to Lessor that the Delivered Equipment has been duly marked in accordance with the terms of Section 8 of the Lease Agreement and that Lessee has accepted the Delivered Equipment for all purposes hereof

and of the Lease Agreement as being in accordance with specifications, in good working order and repair and without defect or inherent vice in title, condition, design, operation or fitness for use, whether or not discoverable by Lessee as of the date hereof, and free of all liens, encumbrances and claims of others except as permitted under the first sentence of Section 6 of the Lease; provided that nothing contained herein or in the Lease Agreement shall in any way diminish or otherwise affect any right Lessee or Lessor may have with respect to the Delivered Equipment against any Vendor or any subcontractor or supplier of any Vendor, under the Acquisition Agreements or otherwise.

7. All of the provisions of the Lease Agreement are hereby incorporated by reference in this Lease Supplement, on and as of the date hereof, to the same extent as if fully set forth herein.

8. This Lease Supplement is being delivered in the State of Illinois and shall in all respects be governed by, and construed in accordance with, the laws of the State of Illinois, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have

caused this Lease Supplement to be duly executed as of the
day and year first above written.

LESSOR

ATTEST:[seal]

TRANS UNION LEASING CORPORATION

BY _____

By _____

LESSEE

ATTEST: [seal]

DOW BADISCHE COMPANY

BY _____

By _____

SCHEDULE TO LEASE
SUPPLEMENT NO.

DELIVERED EQUIPMENT

| <u>Type</u> | <u>Builder's Specifica- tions</u> | <u>AAR Reporting Marks</u> | <u>Quantity</u> | <u>Lessor's Cost (Per Item)</u> | <u>Lessor's Cost (Total)</u> |
|-------------|---|------------------------------------|-----------------|---|--------------------------------------|
|-------------|---|------------------------------------|-----------------|---|--------------------------------------|

EXHIBIT C
TO
LEASE AGREEMENT

TERMINATION VALUE
AND
STIPULATED LOSS VALUE
TABLES

The Termination Value or Stipulated Loss Value of any Item of Equipment payable on any Lease Rental Date shall be an amount equal to the product of (i) Lessor's Cost for such Item multiplied by (ii) the percentage appearing opposite such Date under the column below headed "Termination Value" or "Stipulated Loss Value," as the case may be.

SERIES A
EQUIPMENT:

| <u>Lease Rental Date</u> | <u>Termination Value</u> | <u>Stipulated Loss Value</u> |
|----------------------------------|--------------------------|----------------------------------|
| 1 | 100.623% | 104.619% |
| 2 | 99.344% | 103.432% |
| 3 | 92.978% | 102.158% |
| 4 | 96.532% | 100.807% |
| 5 | 95.247% | 99.618% |
| 6 | 93.672% | 98.143% |
| 7 | 92.022% | 96.549% |
| 8 | 90.300% | 94.976% |
| 9 | 88.647% | 93.429% |
| 10 | 86.805% | 91.696% |
| 11 | 84.898% | 89.899% |
| 12 | 82.926% | 88.041% |
| 13 | 80.943% | 86.173% |
| 14 | 78.863% | 84.212% |
| 15 | 76.726% | 82.196% |
| 16 | 74.530% | 80.124% |
| 17 | 72.249% | 77.970% |
| 18 | 69.953% | 75.804% |
| 19 | 67.603% | 73.586% |
| 20 | 65.195% | 71.314% |

| <u>Lease Rental Date</u> | <u>Termination Value</u> | <u>Stipulated Loss Value</u> |
|----------------------------------|--------------------------|----------------------------------|
| 21 | 62.641% | 68.899% |
| 22 | 60.126% | 66.526% |
| 23 | 57.556% | 64.100% |
| 24 | 54.927% | 61.621% |
| 25 | 52.125% | 58.970% |
| 26 | 49.394% | 56.394% |
| 27 | 46.617% | 53.776% |
| 28 | 43.793% | 51.114% |
| 29 | 40.778% | 48.265% |
| 30 | 37.865% | 45.521% |
| 31 | 34.901% | 42.731% |
| 32 | 31.886% | 39.894% |
| 33 | 28.645% | 36.834% |
| 34 | 25.532% | 33.907% |
| 35 | 22.365% | 30.929% |
| 36 | 19.141% | 27.900% |
| 37 | 15.653% | 24.610% |
| 38 | 12.334% | 21.495% |
| 39 | 8.956% | 18.324% |
| 40 | 5.000% | 15.000% |

SERIES B
EQUIPMENT:

| <u>Lease Rental Date</u> | <u>Termination Value</u> | <u>Stipulated Loss Value</u> | <u>Amount Included for Investment Credit Reimbursement</u> |
|----------------------------------|--------------------------|----------------------------------|--|
| 1 | 101.674% | 104.339% | 14.000% |
| 2 | 101.213% | 103.938% | 14.000% |
| 3 | 100.457% | 103.244% | 14.000% |
| 4 | 100.069% | 102.919% | 14.000% |
| 5 | 99.968% | 102.882% | 14.000% |
| 6 | 99.316% | 102.296% | 14.000% |
| 7 | 98.604% | 101.652% | 14.000% |
| 8 | 97.843% | 100.960% | 14.000% |
| 9 | 97.436% | 100.624% | 14.000% |
| 10 | 96.620% | 99.880% | 14.000% |
| 11 | 95.788% | 99.122% | 14.000% |
| 12 | 95.010% | 98.420% | 14.000% |
| 13 | 89.748% | 93.235% | 9.333% |
| 14 | 88.878% | 92.444% | 9.333% |
| 15 | 87.990% | 91.637% | 9.333% |

| <u>Lease Rental Date</u> | <u>Termination Value</u> | <u>Stipulated Loss Value</u> | <u>Amount Included for Investment Credit Reimbursement</u> |
|----------------------------------|--------------------------|----------------------------------|--|
| 16 | 87.084% | 90.813% | 9.333% |
| 17 | 86.443% | 90.257% | 9.333% |
| 18 | 85.513% | 89.413% | 9.333% |
| 19 | 84.563% | 88.552% | 9.333% |
| 20 | 83.681% | 87.760% | 9.333% |
| 21 | 78.161% | 82.333% | 4.667% |
| 22 | 77.164% | 81.430% | 4.667% |
| 23 | 76.145% | 80.508% | 4.667% |
| 24 | 75.104% | 79.566% | 4.667% |
| 25 | 74.207% | 78.770% | 4.667% |
| 26 | 73.135% | 77.801% | 4.667% |
| 27 | 72.039% | 76.811% | 4.667% |
| 28 | 70.934% | 75.815% | 4.667% |
| 29 | 65.214% | 70.205% | 0.000% |
| 30 | 64.059% | 69.164% | 0.000% |
| 31 | 62.879% | 68.099% | 0.000% |
| 32 | 61.671% | 67.010% | 0.000% |
| 33 | 60.481% | 65.941% | 0.000% |
| 34 | 59.235% | 64.818% | 0.000% |
| 35 | 57.960% | 63.670% | 0.000% |
| 36 | 56.656% | 62.496% | 0.000% |
| 37 | 55.304% | 61.275% | 0.000% |
| 38 | 53.971% | 60.078% | 0.000% |
| 39 | 52.607% | 58.853% | 0.000% |
| 40 | 51.211% | 57.598% | 0.000% |
| 41 | 49.639% | 56.171% | 0.000% |
| 42 | 48.201% | 54.880% | 0.000% |
| 43 | 46.728% | 53.559% | 0.000% |
| 44 | 45.220% | 52.207% | 0.000% |
| 45 | 43.442% | 50.586% | 0.000% |
| 46 | 41.867% | 49.174% | 0.000% |
| 47 | 40.256% | 47.728% | 0.000% |
| 48 | 38.607% | 46.248% | 0.000% |
| 49 | 36.661% | 44.475% | 0.000% |
| 50 | 34.938% | 42.930% | 0.000% |
| 51 | 33.175% | 41.348% | 0.000% |
| 52 | 31.370% | 39.729% | 0.000% |
| 53 | 29.242% | 37.789% | 0.000% |
| 54 | 27.357% | 36.099% | 0.000% |
| 55 | 25.428% | 34.367% | 0.000% |
| 56 | 23.453% | 32.595% | 0.000% |
| 57 | 21.124% | 30.474% | 0.000% |
| 58 | 19.062 | 28.624% | 0.000% |
| 59 | 16.951% | 26.729% | 0.000% |
| 60 | 7.000% | 17.389% | 0.000% |

EXHIBIT D
TO
LEASE AGREEMENT

NOTICE OF ASSIGNMENT OF RENT AS SECURITY

Dow Badische Company
Williamsburg
Virginia 23185

Gentlemen:

Reference is made to the Equipment Lease Agreement dated as of November 1, 1973 between you, as Lessee, and the undersigned as Lessor together with all Supplements thereto now or hereafter executed (the "Lease"), providing for the lease to you of certain railroad equipment as more fully described in the Lease.

You are hereby notified that we have granted to Bank of America National Trust and Savings Association (the "Assignee") a security interest in the Lease and all rentals and other sums due or to become due thereunder, and have assigned to the Assignee all rentals and all other sums due or to become due under the Lease as security for a loan to the undersigned by the Assignee pursuant to a Loan and Security Agreement dated November 1, 1973 between the undersigned and the Assignee. You are hereby authorized and directed to remit all of such rentals and sums directly to the Assignee.

Dated: November ____, 1973.

TRANS UNION LEASING CORPORATION

[seal]

By _____
Its _____

Dow Badische Company
Williamsburg, Virginia 23185

Bank of America National Trust and Savings Association, as Assignee, hereby requests that the assigned payments be made in the manner set forth in the form of Acknowledgment and Agreement attached hereto and that you execute and deliver a copy thereof to us.

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION

[seal]

By _____
Its _____

Dated November ____, 1973.

ACKNOWLEDGEMENT AND AGREEMENT

Bank of America National Trust
and Savings Association
555 California Street
San Francisco, California 94137

Attention: Leasing Department #656

Gentlemen:

The undersigned, Dow Badische Company (the "Lessee"), acknowledges receipt of the Notice of Assignment of Rent as Security dated November ____, 1973 under which Trans Union Leasing Corporation (the "Lessor") has granted to you a security interest in (a) the Lease as defined in such Notice and (b) all rentals and all other sums due or to become due under the Lease. As an inducement for you to make the advances referred to in Section 2(a) of the Lease, and for other good and valuable consideration the undersigned agrees that, unless and until you shall give us any further notice changing the following address (in which event payments shall be made to you or your assignee at such address), the Lessee agrees to pay all such rentals and other sums due or to become due under the Lease by check or other remittance to you at Box 37070, San Francisco, California 94137 - Attention: Leasing Department #656. Each such remittance shall be accompanied by a statement, voucher or other advice identifying the same as a payment made pursuant to an identified Supplement to the Lease, and if any portion thereof constitutes payment of "Stipulated Loss Value" or "Termination Value" under the Lease, the statement shall specify the amount thereof.

The Lessee acknowledges and agrees that your rights, as Assignee in respect of such rentals and other sums, are absolute and unconditional, and shall not be subject to any abatement whatsoever or to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any damage to or loss or destruction of the Equipment (except as otherwise provided in Section 10 of the Lease) or by reason of any defect in or failure of title of Lessor to the Equipment or any interruption from whatsoever cause in the use, operation or possession of the Equipment or by reason of any indebtedness or liability at any time owing by the Lessor under the Lease to the Lessee or any other person or for any other reason except your wrongful act. The undersigned further acknowledges your right, upon the occurrence of any Event of Default under said Loan and Security Agreement, to exercise any or all rights of the Lessor under the Lease in the name of the Lessor or in your own name, including the right to receive rentals notwithstanding any notice from the Lessor in the form described above. Nothing herein shall be construed to impose upon you any of the obligations of the Lessor under the Lease.

The undersigned also agrees that the Lease shall not, without your prior written consent, be amended, terminated, or

modified, and that the undersigned shall take no action which might result in the alteration or impairment of the Lease, the Notice or this Acknowledgment and Agreement or of any of the rights created by any thereof. This Agreement shall be binding upon the Lessee and its successors and assigns.

DOW BADISCHE COMPANY

By _____

Its _____

[Seal]

ACQUISITION AGREEMENT

Dated as of November 1, 1973

between

DOW BADISCHE COMPANY,

as Assignor

and

TRANS UNION LEASING CORPORATION,

as Assignee

and

CONSENT AND AGREEMENT

Dated as of November 1, 1973

by

_____,
as Manufacturer

ASSIGNMENT OF RIGHTS

UNDER

PURCHASE AGREEMENT

RELATING TO

ACQUISITION AGREEMENT

THIS AGREEMENT is entered into as of November 1, 1973 between DOW BADISCHE COMPANY, a Delaware corporation with its chief and principal place of business at Williamsburg, Virginia ("Assignor") and TRANS UNION LEASING CORPORATION, a Delaware corporation with its chief and principal place of business at Chicago, Illinois ("Assignee") with reference to the following:

(i) Assignor entered into the agreement (the "Purchase Agreement") with _____, a _____ corporation ("Manufacturer") described in Exhibit 1 hereto pursuant to which Manufacturer agreed to manufacture and sell to Assignor, and Assignor agreed to buy from Manufacturer, the equipment described in Exhibit 1 hereto (the "Equipment").

(ii) Assignor wishes Assignee to acquire the Equipment and lease the same to Assignor under that certain Equipment Lease Agreement dated November 1, 1973 between Assignee, as Lessor, and Assignor, as Lessee (the "Lease"), Assignor is willing to assign to Assignee, on the terms and conditions hereinafter set forth certain of Assignor's rights and interests under the Purchase Agreement and Assignee is willing to accept such assignment, as hereinafter set forth.

Accordingly, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree

as follows:

1. Assignor hereby assigns to Assignee, its successors and assigns, all Assignor's rights and interests in and to the Purchase Agreement as and to the extent that the same relates to the Equipment and the purchase and operation thereof, except and to the extent reserved below, including without limitation in such assignment, (a) the right upon valid tender by Manufacturer to purchase the Equipment pursuant to the Purchase Agreement, and the right to take title to the Equipment and to be named the purchaser in the bill or bills of sale to be delivered by Manufacturer for the Equipment pursuant to the Purchase Agreement, (b) all claims for damages in respect of the Equipment arising as a result of any default by Manufacturer under the Purchase Agreement, including without limitation all warranty and indemnity provisions contained in the Purchase Agreement, and all claims arising thereunder, in respect of the Equipment, and (c) any and all rights of Assignor to compel performance of the terms of the Purchase Agreement in respect of the Equipment; reserving to Assignor, however, (i) all Assignor's rights and interest in or arising out of any advance payments made or to be made by Assignor in respect of the Equipment under the Purchase Agreement or any other payments made or to be made by Assignor in respect of the Equipment under the Purchase Agreement, and (ii) with respect to the Equipment so long, and only so long, as such Equipment shall be subject

to the Lease and Assignor shall be entitled to possession of such Equipment thereunder (A) the rights to demand, accept and retain all rights in and to any property (other than the Equipment), data and service which Manufacturer is obligated to provide, or does provide, pursuant to the Purchase Agreement, (B) any rights in respect of spare parts as provided in the Purchase Agreement, (C) any right to obtain instructions and data and demonstration and acceptance tests pursuant to the Purchase Agreement, and (D) any right to maintain representatives at Manufacturer's plant pursuant to the Purchase Agreement. Assignee hereby accepts such assignment.

Notwithstanding the foregoing, so long and only so long as Assignee shall not have notified Manufacturer in writing that an Event of Default, as defined in Section 16 (said term being used hereinafter with the same meaning) of the Lease has occurred and is continuing, Assignee authorizes Assignor, to the exclusion of Assignee, to exercise in its own name all rights and powers of the buyer under the Purchase Agreement and to retain any recovery or benefit resulting from the enforcement of any warranty or indemnity under the Purchase Agreement in respect of the Equipment, except that Assignor may not exercise any of the rights assigned hereunder referred to in clause (a) of the preceding paragraph unless prior to the exercise thereof by Assignee as to any item of Equipment Assignee shall have delivered to Manufacturer written notice that Assignee has released such rights with respect to such

item of Equipment.

Upon Assignee giving such notification to Manufacturer, Assignee and its successors and assigns shall have the full power (in the name of Assignor or otherwise) to enforce all of the rights, titles and interests which are assigned to Assignee pursuant to this Agreement, including (without limitation) all of Assignor's powers, privileges and remedies under the Purchase Agreement, with full power to file any claims or take any action or institute any proceedings which Assignee may deem advisable or necessary. For such purposes, Assignor does hereby constitute Assignee, its successors and assigns, Assignor's true and lawful attorney, irrevocably, with full power (in the name of Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for money due and to become due under, or arising out of, the Purchase Agreement in respect of the Equipment, to the extent that the same have been assigned by this Agreement, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which Assignee may deem necessary or advisable in the premises.

2. It is expressly agreed that, anything herein contained to the contrary notwithstanding: (a) Assignor shall at all times remain liable to Manufacturer under the Purchase Agreement to perform all of the duties and obligations of the

observe such agreements and obligations and (b) any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertaking on the part of Assignee to perform or discharge any of the terms, covenants or agreements contained in the Purchase Agreement.

3. Assignor agrees to designate an employee to act as the Authorized Representative of Assignee pursuant to Section 1(b) of the Lease, and Assignee agrees to appoint such employee as such representative pursuant to an Appointment of Authorized Representative in the form of Exhibit 2 hereto. Such Representative shall inspect all Equipment tendered for delivery by Manufacturer and shall, if such Equipment conforms to all specifications applicable thereto, deliver to Lessor, Lessee and Manufacturer a "Certificate of Acceptance" in the form of Exhibit 3 hereto.

4. Assignee agrees, subject to fulfillment of the conditions set forth in the Lease and the Loan Agreement with respect to any item of Equipment, to purchase and to pay to Manufacturer so much of the full purchase price thereof as does not exceed the maximum Lessor's Cost thereof determined pursuant to the Lease. Assignor shall be responsible for payment of any portion of the full purchase price of any item of Equipment which exceeds the maximum Lessor's Cost thereof. It is understood and acknowledged that any advance payments paid

by Assignor to Manufacturer with respect to such item will be returned by Manufacturer to Assignor contemporaneously with the payment of the full purchase price to Manufacturer in like funds as received by Manufacturer from Assignee.

5. Assignor agrees that at any time and from time to time, upon the written request of Assignee, Assignor will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as Assignee may reasonably request in order to obtain the full benefits of this Agreement and of the rights and powers herein granted.

6. In the event Assignee shall for any reason fail to accept delivery of any item of Equipment when tendered by Manufacturer in accordance with the terms of the Purchase Agreement, Assignor shall be obligated to purchase such item and make payment to Manufacturer therefor, whereupon this Agreement, as it relates to such item, shall terminate.

7. Assignor does hereby represent and warrant that the Purchase Agreement is in full force and effect and is enforceable in accordance with its terms and Assignor is not in default thereunder. Assignor does hereby further represent and warrant that Assignor has not assigned or pledged, and hereby covenants that it will not assign or pledge so long as this Agreement shall remain in effect, the whole or any part of the rights hereby assigned to anyone other than Assignee.

8. Assignee agrees that it will not enter into any

buyer thereunder to the same extent as if this instrument had not been executed; (b) the exercise by Assignee of any of the rights assigned hereunder shall not release Assignor from any of its duties or obligations to Manufacturer under the Purchase Agreement except to the extent that such exercise by Assignee shall constitute performance of such duties and obligations; and (c) neither Assignee, nor any assignee of Assignee shall have any obligation or liability under the Purchase Agreement by reason of, or arising out of, this Agreement or be obligated to perform any of the obligations or duties of Assignor under the Purchase Agreement or to make any payment (other than to pay the purchase price for Equipment to the extent and upon the terms and conditions set forth in the Lease and the Loan Agreement referred to in the Lease) or to make any inquiry of the sufficiency of any payment received by any of them or to present or file any claim or to take any other action to collect or enforce any claim for any payment assigned hereunder.

Assignor shall, at its own expense, perform and observe, as and when performance and observance are required by the Purchase Agreement, the agreements and obligations of Buyer thereunder, shall diligently pursue and enforce, for the benefit of Assignee, the provisions of the Purchase Agreement, and shall indemnify, exonerate and hold Assignee harmless against and from any and all liability, costs, expenses, loss or damage which Assignee may or might incur as a result of or arising out of (a) the failure of Assignor to so perform and

agreement with Manufacturer that would amend, modify, rescind, cancel or terminate the Purchase Agreement in respect of the Equipment without the prior written consent of Assignor.

9. Nothing herein contained shall subject Manufacturer to any liability to which it would not otherwise be subject under the Purchase Agreement or modify in any respect Manufacturer's contract rights thereunder or require Manufacturer to divest itself of title to or possession of any Equipment until delivery thereof and payment therefor as provided therein.

10. In the Security Agreement dated as of November 1, 1973 between Assignee and Bank of America National Trust and Savings Association ("Bank"), 555 California Street, Box 37070, San Francisco, California 94137, Attention: Leasing Department, Assignee assigns and pledges to Bank as security for a loan by Bank, the Equipment, subject to the exercise by Assignee of its right to purchase the Equipment pursuant to the Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of November 1, 1973.

DOW BADISCHE COMPANY

By _____

TRANS UNION LEASING CORPORATION

By _____

CONSENT AND AGREEMENT

The undersigned, _____, hereby acknowledges notice of and consents to all of the terms of the foregoing Agreement (herein called the "Assignment", the defined terms therein being hereinafter used with the same meaning) and hereby confirms to Assignee that:

(i) all representations, warranties, indemnities and agreements of Manufacturer under the Purchase Agreement with respect to the Equipment shall inure to the benefit of Assignee to the same extent as if originally named the buyer therein;

(ii) Assignee shall not be liable for any of the obligations or duties of Assignor under the Purchase Agreement; nor shall the Assignment give rise to any duties or obligations whatsoever on the part of Assignee owing to Manufacturer;

(iii) Manufacturer will continue to pay to Assignor all payments which Manufacturer may be required to make in respect of the Equipment under the Purchase Agreement unless and until Manufacturer shall have received written notification from Assignee that Assignee has declared the Lease to be in default, whereupon Manufacturer will, until Manufacturer shall have received written notification from Assignee that no Event of Default exists under the Lease, make any and all payments which it may be required thereafter to make in respect of the Equipment under the Purchase Agreement and the right to

receive which has been assigned under the Assignment directly to Assignee at _____

_____.
(iv) Manufacturer agrees that the design, quality and component parts of the Equipment except as to design, quality and component parts specified or supplied by the Lessee will conform to the specifications applicable under the Purchase Agreement, to all requirements and specifications of the United States Federal Railroad Administration and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new railroad equipment of the character of the Equipment as of the date of delivery thereof.

(v) Manufacturer represents and warrants that, to the best of its knowledge, at the time of delivery of the Equipment to Assignee's Authorized Representative, the Equipment will be new standard gauge railroad equipment, not having been used by any person after completion of manufacture and prior to delivery, and no capital cost allowance, investment credits or depreciation will have been claimed by any person with respect thereto.

(vi) The Equipment shall be subject to inspection and approval prior to delivery by the Authorized Representative of Assignee (who may be an employee or authorized representative of Assignor) and Manufacturer shall grant to any such Representative reasonable access to its plant. From time to time upon

the completion of the construction of each unit or a number of units of the Equipment, such unit or units shall thereupon be presented to such Representative for inspection at Manufacturer's plant.

(vii) Manufacturer warrants to Assignee that at the time of delivery of each item of Equipment under the Purchase Agreement it shall have legal title to such item and good and lawful right to sell such item and that title to such item is free of all claims, liens, security interests and other encumbrances of any nature and Manufacturer further agrees that it will defend the title to such item against the demands of all persons whosoever based on claims originating prior to the delivery of such item by Manufacturer under the Purchase Agreement.

(viii) On acceptance of each item of Equipment on behalf of the Assignor and Assignee as aforesaid, Manufacturer shall deliver to Assignee (i) an invoice naming Assignee as buyer, describing such item and stating the full purchase price of such item and (ii) a bill of sale transferring title to such unit to Assignee and warranting to Assignee the matters described in clause (vii) above.

(ix) Manufacturer agrees to mail copies of the invoice and bill of sale to Assignee, Assignor and Bank at least fifteen days before payment is due for such item under the Purchase Agreement, which forms must be reasonably satisfactory to Assignor, Assignee and Bank; and

(x) Manufacturer hereby represents and warrants that

(A) Manufacturer is a corporation duly organized and existing in good standing under the laws of the State of _____,

(B) the making and performance of the Purchase Agreement and this Consent and Agreement have been duly authorized by all necessary corporate action on the part of Manufacturer, do not require any stockholder approval and do not contravene any law binding on Manufacturer or contravene Manufacturer's articles of incorporation or by-laws or any indenture, credit agreement or other contractual agreement to which Manufacturer is a party or by which it is bound, and (C) the Purchase Agreement constituted as of the date thereof and at all times thereafter to and including the date of this Consent and Agreement a binding obligation of Manufacturer enforceable against Manufacturer in accordance with its terms and this Consent and Agreement is a binding obligation of Manufacturer enforceable against Manufacturer in accordance with its terms.

Dated as of November 1, 1973

By _____

EXHIBIT 1
TO
ACQUISITION AGREEMENT

PURCHASE AGREEMENT

Attached hereto is a copy of the Purchase Agreement, comprised of:

- (i)
- (ii)
- (iii)

EQUIPMENT

CERTIFICATE OF ACCEPTANCE
EQUIPMENT LEASE AGREEMENT

I, a duly appointed inspector of DOW BADISCHE COMPANY ("DBC") and Authorized Representative of TRANS UNION LEASING CORPORATION ("TU"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of TU and DBC, under the Acquisition Agreement dated November 1, 1973, and the Equipment Lease Agreement dated November 1, 1973, each between TU and DBC, the following units of equipment ("Equipment"):

DESCRIPTION OF EQUIPMENT:

AAR MECHANICAL DESIGNATION:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

AAR REPORTING MARKS:

I do further certify that the foregoing Equipment is in good order and condition and conforms to the AAR specifications for use of such equipment in interchange service applicable thereto and the specifications of the Purchase Agreement (referred to in the Acquisition Agreement), and at the time of delivery to DBC there was plainly, distinctive, permanently and conspicuously marked in contrasting color upon each side of each unit of Equipment in letters not less than one inch in height the following words:

"OWNED AND LEASED AS LESSOR BY TRANS UNION LEASING

CORPORATION AND SUBJECT TO A SECURITY INTEREST
RECORDED WITH THE INTERSTATE COMMERCE COMMISSION."

The execution of this certificate will in no way
relieve or decrease the responsibility of the Vendor of the
Equipment for any warranties it has made with respect to the
Equipment.

Inspector of Dow Badische Company
and Authorized Representative of
Trans Union Leasing Corporation